

SUPER MARKETS



*MORE AND MORE GROCERS ARE POSTING MERCURY
WARNING SIGNS AT SEAFOOD COUNTERS*

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AUGUST 2008

Acknowledgements

Oceana would like to thank the following individuals for their contributions to this report: Jacqueline Savitz, Dr. Kimberly Warner, Beth Kemler, Eric Bilsky, Dr. Michael Hirshfield, Louisa Shakeri, Kathryn Riley, and Jaela Grayson. Oceana also wishes to thank the leaders in the grocery industry that have posted the FDA advice. These include Safeway, Whole Foods, Trader Joe's, Supervalu, Kroger Company, Harris Teeter and Costco. We would also like to thank The Forrest & Frances Lattner Foundation and The Moore Charitable Foundation for their support of Oceana's Campaign to Stop Seafood Contamination.

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EXECUTIVE SUMMARY

In recent years, Americans have been eating more seafood than ever before. Despite the health benefits of seafood, high mercury levels in some fish can cause serious health problems. The Food and Drug Administration (FDA) has issued advice on which fish to avoid. Unfortunately, without guidance many people are still unable to determine which fish contain high levels of mercury.

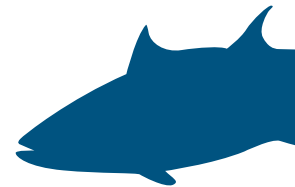
Since 2005, Oceana has been urging companies to post the FDA advice at their seafood counters so that shoppers can make informed choices to avoid the risks of mercury while still getting the benefits of seafood consumption. As a result of this work, many grocery companies have begun posting warning signs containing the FDA advice. An Oceana report released in 2006 showed that about 12% of major grocery chains were posting signs. In the two years since then the figure has nearly tripled. Today, one in three major grocery stores nationwide is posting these vital signs. This report summarizes the status of mercury warning signs being posted at the point of sale in major grocery stores. Some of the results include:

- APPROXIMATELY 36 PERCENT OF MAJOR GROCERY STORES NATIONWIDE ARE POSTING THE FDA ADVICE ABOUT MERCURY IN FISH.
- IN WASHINGTON STATE 95 PERCENT OF MAJOR GROCERY STORES ARE POSTING SIGNS, INCLUDING SAFEWAY, ALBERTSONS AND QFC STORES, WHILE THE MAJORITY OF STORES NOT POSTING SIGNS ARE OWNED BY WAL-MART.
- ONLY TWO PERCENT OR FEWER OF THE STORES IN FLORIDA, IOWA AND OKLAHOMA ARE POSTING SIGNS. THIS IS LARGELY AS A RESULT OF REFUSAL TO DO SO BY PUBLIX, HY-VEE AND WAL-MART.
- WEST COAST STATES HAVE HIGHER PERCENTAGES OF GROCERS WITH MERCURY WARNING SIGNS, WHILE SOUTHERN AND EASTERN STATES HAVE THE FEWEST GROCERY STORES POSTING SIGNS.
- NATIONAL GROCERY COMPANIES THAT ARE COMMITTED TO POSTING SIGNS ABOUT MERCURY IN FISH, LIKE KROGER, SAFEWAY, COSTCO AND WHOLE FOODS, ARE PLAYING AN IMPORTANT ROLE IN DISTRIBUTING THE FDA ADVICE.
- REGIONAL GROCERY COMPANIES THAT REFUSE TO POST WARNING SIGNS, LIKE PUBLIX, A&P AND GIANT EAGLE, ARE CREATING OBSTACLES TO THE DISTRIBUTION OF THE GOVERNMENT'S MERCURY ADVISORY.

Thousands of people have asked their grocery company to place a sign with the FDA's fish consumption advisory near seafood counters. Over 6,400 grocery stores nationwide have committed to giving their customers what they want, but many more simply refuse to provide their customers with what they need. Some grocers without mercury warning signs may offer dense brochures, burying the mercury advisory, or unproven "low-mercury" certification programs. Others may ignore the mercury problem completely. A few recommendations for these grocers include:

- **GROCERY STORES NOT YET POSTING THE FOOD AND DRUG ADMINISTRATION'S ADVICE ABOUT MERCURY IN SEAFOOD SHOULD DO SO IMMEDIATELY TO ALLOW SHOPPERS TO MAKE INFORMED CHOICES ABOUT WHAT THEY PURCHASE AND FEED TO THEIR FAMILIES.**
- **BROCHURES AND INFORMATION ON SUPERMARKET WEBSITES ABOUT MERCURY IN FISH SHOULD BE SUPPLEMENTED BY SIGNS AT THE POINT OF SALE TO ALLOW BUSY SHOPPERS TO SEE THE INFORMATION EVEN IF THEY DO NOT CHOOSE TO READ THE BROCHURE.**
- **SO-CALLED "LOW-MERCURY" CERTIFICATION PROGRAMS SHOULD NOT BE USED BY GROCERS AS A SUBSTITUTE FOR POSTING THE FDA ADVICE AS THIS PROVIDES CONSUMERS WITH A FALSE SENSE OF SECURITY.**

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INTRODUCTION

Over the past decade, seafood consumption has significantly increased in the United States. Despite higher prices and elevated mercury concerns, Americans ate 4.9 billion pounds of seafood in 2006 – representing a four pound per capita increase since 1980.¹ This heightened level of consumption may have a host of causes including globalization, technology and changes in consumer perception of seafood. In recent years, Americans have been eating more seafood than ever before.²

Even though seafood is part of a healthy diet, some fish contain dangerously high levels of mercury. Those fish should be avoided, especially by children and women of childbearing age. In 2004, the United States Environmental Protection Agency (EPA) and the Food and Drug Administration (FDA) issued this joint advisory:³

ATTENTION!

WOMEN WHO MIGHT BECOME PREGNANT, WOMEN WHO ARE PREGNANT, NURSING MOTHERS AND YOUNG CHILDREN:

- DO NOT EAT SHARK, SWORDFISH, KING MACKEREL, OR TILEFISH BECAUSE THEY CONTAIN HIGH LEVELS OF MERCURY.
- EAT UP TO 12 OUNCES (TWO AVERAGE MEALS) A WEEK OF A VARIETY OF FISH AND SHELLFISH THAT ARE LOWER IN MERCURY.
- FIVE OF THE MOST COMMONLY EATEN FISH THAT ARE LOW IN MERCURY ARE SHRIMP, CANNED LIGHT TUNA, SALMON, POLLOCK, AND CATFISH.
- ANOTHER COMMONLY EATEN FISH, ALBACORE (“WHITE”) TUNA HAS MORE MERCURY THAN CANNED LIGHT TUNA. SO, WHEN CHOOSING YOUR TWO MEALS OF FISH AND SHELLFISH, YOU MAY EAT UP TO SIX OUNCES (ONE AVERAGE MEAL) OF ALBACORE TUNA PER WEEK.
- CHECK LOCAL ADVISORIES ABOUT THE SAFETY OF FISH CAUGHT BY FAMILY AND FRIENDS IN YOUR LOCAL LAKES, RIVERS, AND COASTAL AREAS. IF NO ADVICE IS AVAILABLE, EAT UP TO SIX OUNCES (ONE AVERAGE MEAL) PER WEEK OF FISH YOU CATCH FROM LOCAL WATERS, BUT DON'T CONSUME ANY OTHER FISH DURING THAT WEEK.

Source: U.S. EPA and U.S. FDA, 20044

This warning is based on government data that show large predatory fish (like shark, swordfish, tilefish and king mackerel) have the highest average mercury levels.⁵ Even in relatively small doses, mercury is a dangerous neurotoxin that can impede childhood development and has been shown to increase heart complications and other health problems in adults.⁶

SAFE HARBOR CERTIFICATION? NOT REALLY SAFE.

SOME GROCERY COMPANIES THAT ARE REFUSING TO POST THE FDA ADVICE ARE INSTEAD CLAIMING TO SELL ONLY "CERTIFIED" LOW-MERCURY SEAFOOD.⁷ HOWEVER, THESE CLAIMS PROVIDE SHOPPERS A FALSE SENSE OF SECURITY. EVEN WHEN A FISH IS CERTIFIED TO BE "LOW-MERCURY," IT STILL CONTAINS MERCURY AT LEVELS THAT COULD BE DANGEROUS. THESE LABELS MAY LEAD CONSUMERS TO BELIEVE THAT THE FISH ARE MERCURY FREE AND THAT THEY CAN IGNORE THE FDA ADVICE. HOWEVER, EVEN CONSUMPTION OF "LOW MERCURY" SWORDFISH OR "LOW MERCURY" TUNA SHOULD BE AVOIDED OR LIMITED BY WOMEN OF CHILDBEARING AGE AND KIDS. FISH MAY BE "CERTIFIED" AS LOW-MERCURY SIMPLY BECAUSE IT HAS LOWER MERCURY LEVELS THAN THE AVERAGE FOR THAT SPECIES WHICH SAYS NOTHING ABOUT HOW MUCH OF THAT FISH IS SAFE TO CONSUME. SHOPPERS SHOULD FOLLOW FDA ADVICE IN ORDER TO PROTECT THEIR FAMILIES FROM MERCURY. WITHOUT SIGNS CONVEYING THE FDA MERCURY ADVICE, SHOPPERS WILL CONTINUE TO BE SHORT-CHANGED.

While some in the seafood industry have argued that the FDA advice has resulted in a decline in fish consumption, government data show a continued increase in seafood consumption per capita. In fact, in 2004, the year the agency issued its advice, seafood consumption reached a record high in the United States.⁸

As it turns out, it is likely the government's advice is not getting to those that need it most. A poll conducted for the Center for Science in the Public Interest showed that "31 percent of pregnant women, women planning on becoming pregnant and nursing mothers did not know that seafood with high mercury levels could be harmful."⁹



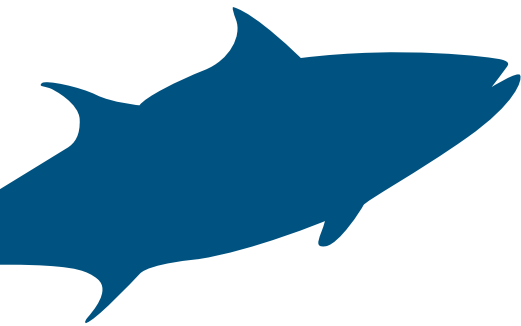


Table 1. Many Seafood Options are low in Mercury and High in Omega-3 Fatty Acids

* ANCHOVIES	CANNED LIGHT TUNA
* HERRING	CATFISH
* MUSSELS	COD
* OYSTERS	FLATFISH (SOLE, FLOUNDER, PLAICE)
* NORTH ATLANTIC MACKEREL	POLLOCK
* SALMON	SCALLOPS
* TROUT	SHRIMP
* BLUE, KING AND SNOW CRAB	TILAPIA

*High in Omega-3's

Source: Compiled by Oceana using FDA data.¹¹



Another study has shown that among those in a university community who were aware of seafood advisories, 62 percent did not know any details, such as which fish are covered by advisories or for what reason.¹⁰ General knowledge that fish consumption advisories exist is not enough to help consumers reduce exposure to high-mercury fish.

Limiting consumption of fish with higher levels of mercury, in favor of low mercury fish is a simple way to maximize the health benefits of seafood while minimizing the risks associated with mercury. Many types of seafood are low in mercury and contain the omega-3 fatty acids considered necessary for optimal heart health. Some examples are given in Table 1. Therefore, it is essential that grocers give consumers advice about mercury levels in fish at the point of sale so they can make informed, healthy decisions. Simple, inexpensive signs are being used in some stores already.

FISHY ADVICE

OCEANA PUBLISHED A REPORT IN EARLY 2008 THAT INCLUDED RESULTS FROM A NATIONWIDE SURVEY OF GROCERY STORE SEAFOOD COUNTER ATTENDANTS. AT GROCERY STORE SEAFOOD COUNTERS, OCEANA STAFF AND VOLUNTEERS ASKED "WHAT IS THE GOVERNMENT ADVICE ON MERCURY IN SEAFOOD FOR WOMEN WHO ARE THINKING ABOUT HAVING KIDS?" BASED ON A SURVEY OF 40 STORES IN 38 U.S. CITIES, NEARLY NINE OUT OF TEN SEAFOOD COUNTER ATTENDANTS EITHER INDICATED THEY *DID NOT KNOW* THE ANSWER, OR GAVE *INCOMPLETE OR INACCURATE ADVICE*.

HERE ARE SOME EXAMPLES OF ADVICE GIVEN BY EMPLOYEES:

Publix.

Our volunteer shopper reported what one employee recommended: "He said, 'women who are pregnant should not eat any fish that is farm-raised but it was OK to eat all fish from the ocean'."

This answer is incorrect and could lead customers to eat high mercury fish while avoiding low mercury fish. All of the fish covered by FDA consumption advice are ocean fish, and many low mercury options are farm-raised.

STOP&SHOP

Another volunteer visited Stop & Shop, an A&P subsidiary. The employee there recommended: "You'd better ask your doctor, Ma'am."

Posting simple signs with the FDA advice near seafood counters could save Stop & Shop's customers at least one trip to the doctor.



At this subsidiary of Ahold, an employee told an Oceana employee simply: "Well, my girlfriend eats fish." This advice is clearly useless to the consumer.

NOW COMPARE THOSE USELESS ANSWERS TO THE HELPFUL ONE GIVEN BY A STORE EMPLOYEE WHOSE COMPANY POLICY IS TO POST SIGNS:

GENUARDIS

An Oceana volunteer recorded the advice from a Genuardi's employee: "They should limit their intake. He specified which not to eat: swordfish, king mackerel, shark, tilefish and tuna. Then he listed a bunch that were better choices like salmon and flounder."

IT SEEMS POSTING THE FDA ADVICE NOT ONLY CAN HELP CONSUMERS, BUT ALSO GIVES SEAFOOD SELLERS THE CORRECT INFORMATION TO PASS ON TO CONCERNED CUSTOMERS.

Source: Oceana. Statements made to, and reported by Oceana volunteers and staff.



"SUPER" MARKETS:

THE STATUS OF GROCERS POSTING MERCURY WARNING SIGNS

In 2005, Oceana launched its Campaign to Stop Seafood Contamination with a goal of persuading major grocery companies to post the EPA/FDA mercury advice at seafood counters. Grocery companies that post signs where seafood is sold earn a spot of distinction on Oceana's "Green List". Companies that have refused to post a simple sign are relegated to the "Red List" as shown in Table 2.

Table 2. Oceana's Grocery Green List Includes Many Seafood Retailers

RED LIST		GREEN LIST	
A & P	Pick 'n Save	Acme	Jay C
ALDI	Price Chopper	Albertsons*	Jewel-Osco
Bi-Lo	Publix	Baker's	King Soopers
Bloom	Rainbow	bigg's	Kroger
Copps	Sam's Club	Carrs	Owen's
The Food Emporium	Save-A-Lot	City Market	Pay Less
Food Lion	Schnucks	Costco	QFC
Giant	ShopRite	Cub Foods	Ralphs
Giant Eagle	Stop & Shop	Dillons	Randalls
Hannaford Bros.	Super Fresh	Dominick's	Safeway
Harveys	Super Target	Farm Fresh	Shaw's
HEB	Sweetbay	Food 4 Less	Shop 'n Save
Hy-Vee	Tops Markets	Foods Co.	Shoppers
IGA	Waldbaum's	Fred Meyer	Smith's
Ingles	Wal-Mart	Fry's	Star Market
Meijer	Wegmans	Genuardi's	Tom Thumb
Pathmark	Weis Markets	Gerbes	Trader Joe's
	Winn-Dixie	Harris Teeter	Vons
		Hilander	Whole Foods
		Hornbacher's	

*Albertsons Stores in AR, AZ, CO, FL, LA, NE, OK, SD, TX and some in NV and WY do not post the FDA advice.

In 2006, Oceana analyzed the status of sign-posting at seafood counters. At that time, only 12 percent of the major grocery market share was posting the government advice. That fraction represented nearly 3,000 stores nationwide with the FDA advice at the point of sale. Since then, the number has increased. As of July 2008, approximately 36 percent of the major grocery stores are posting this information, which translates into more than 6,400 stores voluntarily hanging signs where seafood is sold. As a result, a U.S. consumer has at least a one-in-three chance of walking into a major grocery store that has the FDA advice posted near the point of sale.

These data show that the posting of EPA/FDA mercury advice at the point of sale has become a solid trend in the grocery industry. Despite this trend, shoppers in two out of three stores will not have access to the government advice since many companies are still not posting signs. There is also some disparity among states, and even regions, in terms of the prevalence of stores posting these vital signs.

Washington State ranks first in the country with 95 percent of its major grocery stores posting signs conveying the FDA advice to shoppers. Oregon runs a close second, with 94 percent of major grocery stores posting signs. Hawaii places third, while Washington, DC (in eleventh place) tops the Eastern states with 71 percent, or nearly three quarters of stores posting signs. Safeway and Kroger, two companies that are committed to posting the FDA advisory, buoy the top ten states and Costco helps to propel Washington and Oregon to first and second in the country.

On the other hand, Florida, Iowa and Oklahoma are at the low end of the spectrum, with the worst overall performance by grocery stores. In those states, only two percent or fewer of the stores are posting signs, resulting in little if any opportunity for shoppers to get this important government advice on mercury in fish. Florida's poor performance is largely driven by the refusal of the predominant grocery retailer, Publix, to post the signs. New York follows closely with only five percent of stores posting signs due largely to A&P's refusal to post signs in its stores. Pennsylvania's grocery shoppers have a less than a one-in-six chance of going to a store that has the FDA advice posted, resulting in the state ranking 42nd out of the fifty states. The regional grocer, Giant Eagle, could partially remedy this situation if it would begin posting signs. The Pennsylvania-based retailer could nearly double the number of stores posting signs due to its strong regional market share. If Giant Eagle agreed to post signs, Ohio would improve by 17 percent and score a higher letter grade.





Table 3 – Washington and Oregon Lead the Nation while Florida, Iowa and Oklahoma Perform Worst

GRADE BY PERCENTAGE

- A = 100% - 80%
- B = 79% - 60%
- C = 59% - 40%
- D = 39% - 20%
- F = 19% - 0%

WASHINGTON STATE RANKS FIRST IN THE COUNTRY, WITH 95 PERCENT OF ITS GROCERY STORES POSTING SIGNS CONVEYING THE FDA ADVICE TO SHOPPERS. ON THE OTHER HAND, FLORIDA, IOWA AND OKLAHOMA ARE AT THE LOW END OF THE SPECTRUM, WITH THE WORST OVERALL PERFORMANCE BY GROCERY STORES.



RANK	STATE	GRADE	GREEN STORES	RED STORES	% GREEN STORES
1	Washington	A	425	23	95%
2	Oregon	A	232	16	94%
3	Nevada	A	156	13	92%
4	Hawaii	A	25	3	89%
5	California	A	1456	230	86%
6	Alaska	A	49	8	86%
7	Utah	A	114	24	83%
8	Idaho	A	62	14	82%
9	Arizona	B	271	89	75%
10	Colorado	B	287	114	72%
11	DC	B	20	8	71%
12	North Dakota	B	7	4	64%
13	Montana	C	52	36	59%
14	Wyoming	C	22	23	49%
15	Illinois	C	384	403	49%
16	New Mexico	C	41	46	47%
17	Massachusetts	C	137	159	46%
18	Kansas	C	78	98	44%
19	Indiana	C	163	226	42%
20	New Hampshire	C	36	50	42%
21	Vermont	C	20	29	41%
22	Michigan	D	160	262	38%
23	Rhode Island	D	17	28	38%
24	Minnesota	D	73	136	35%
25	West Virginia	D	46	88	34%
26	Kentucky	D	110	211	34%
27	Maryland	D	144	295	33%
28	Ohio	D	245	506	33%
29	Texas	D	339	733	32%
30	Virginia	D	215	519	29%
31	Arkansas	D	38	92	29%
32	Tennessee	D	130	339	28%
33	Georgia	D	194	568	25%
34	Delaware	D	16	47	25%
35	Mississippi	D	30	91	25%
36	Nebraska	D	22	68	24%
37	Maine	D	25	88	22%
38	Connecticut	D	40	150	21%
39	New Jersey	D	91	375	20%
40	Missouri	F	58	283	17%
41	North Carolina	F	148	755	16%
42	Pennsylvania	F	95	601	14%
43	South Dakota	F	3	19	14%
44	Wisconsin	F	27	271	9%
45	Alabama	F	14	151	8%
46	Louisiana	F	13	161	7%
47	South Carolina	F	29	439	6%
48	New York	F	34	604	5%
49	Florida	F	36	1525	2%
50	Iowa	F	4	183	2%
51	Oklahoma	F	1	130	1%
TOTALS			6434	11334	36%

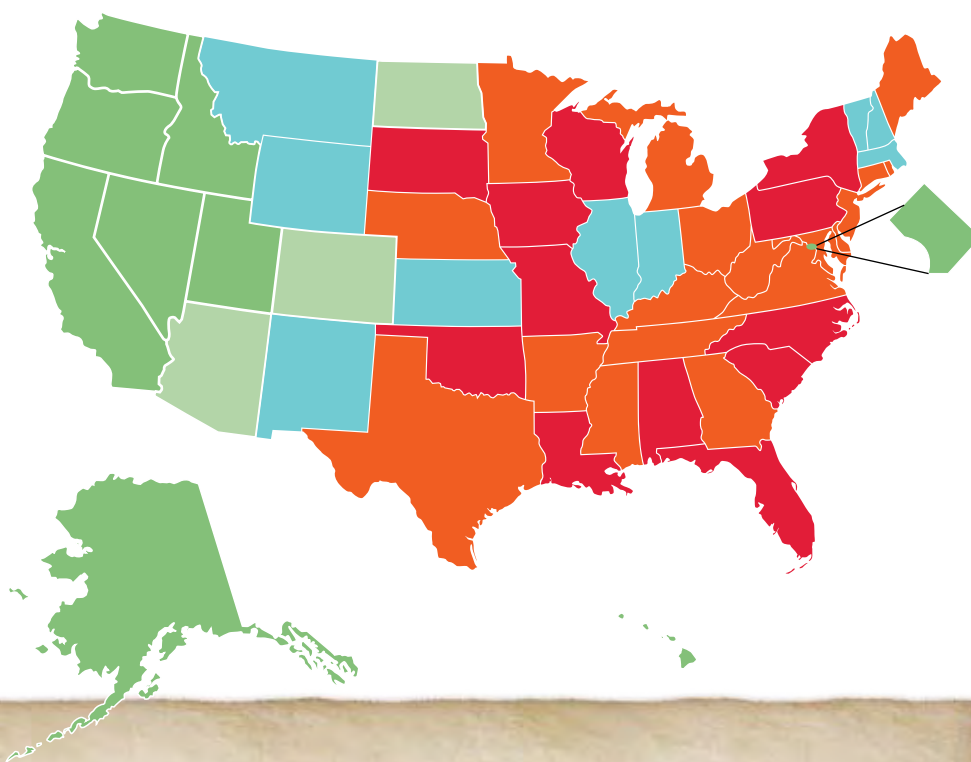
REGIONAL DIFFERENCES

The regional nature of the grocery industry and the concentration of certain companies in some regional markets benefit some customers more than others. For example, Publix was the sixth largest grocery company in the United States in 2007¹²; however, it operates in only five states. Therefore, if a company like Publix were to post the government mercury advice at its seafood counters, it would result in a tremendous improvement in a few important locations.

SIGNS IN STORES MUCH MORE PREVALENT IN THE WESTERN U.S. THAN THE EASTERN U.S.

Grade by percentage:

A	100% - 80%
B	79% - 60%
C	59% - 40%
D	39% - 20%
F	19% - 0%



CALIFORNIA WARNS CONSUMERS ABOUT MERCURY IN FISH

SOME MAJOR GROCERY STORES HAVE BEEN POSTING A WARNING ABOUT MERCURY LEVELS IN FISH SINCE 2003. THAT YEAR, CALIFORNIA STORES OWNED BY ALBERTSONS, KROGER, SAFEWAY, TRADER JOE'S AND WHOLE FOODS BEGAN TO POST THE FISH CONSUMPTION ADVICE AFTER CALIFORNIA ATTORNEY GENERAL BILL LOCKYER FILED A LAWSUIT.¹³ THE LAWSUIT WAS BASED ON CALIFORNIA'S SAFE DRINKING WATER AND TOXIC ENFORCEMENT ACT OF 1986, A STATE LAW THAT REQUIRES COMPANIES TO LABEL PRODUCTS THAT CONTAIN CERTAIN HARMFUL CHEMICALS SO THAT CONSUMERS CAN MAKE INFORMED CHOICES ABOUT THEIR PURCHASES. AS A RESULT, CALIFORNIA HAS BEEN A LEADER AMONG THE STATES IN PROTECTING CONSUMERS BY REQUIRING SUPERMARKETS TO POST WARNING SIGNS ABOUT MERCURY IN FISH.



WESTERN STATES

Looking at the trends in posting signs to benefit consumers, there is a clear tendency for companies based in West Coast states to take the lead (see Table 4). Meanwhile, those based in the central U.S. and the East Coast tend to be the laggards. Since California supermarkets are required by state law to post the advice concerning fish.¹⁴ As a result it might be expected that 100 percent of grocery stores should be hanging a warning sign. However, a recent Turtle Island Restoration Network (TIRN) study questioned the rate of compliance at the state's grocery stores and suggested the rate might be closer to 59 percent.¹⁵ Oceana data based solely on current Green List participation, using the same methodology used for other states, suggests that about 86 percent of major grocery stores in California are posting the sign. Taken together, the two studies suggest that the compliance rate in California is somewhat below 100 percent, but still higher than

Table 4: All of the Top 10 States are Western

Rank	State	Major Green Company	Major Red Company
1	Washington	Safeway	Wal-Mart
2	Oregon	Safeway	Wal-Mart
3	Nevada	Food-4-Less, Smith's	Wal-Mart
4	Hawaii	Safeway	IGA
5	California	Safeway	N/A
6	Alaska	Safeway	IGA
7	Utah	Albertsons*	Wal-Mart
8	Idaho	Albertsons*	IGA
9	Arizona	Safeway	Wal-Mart
10	Colorado	King Soopers, City Market	Albertsons*

*Albertsons Stores in AR, AZ, CO, FL, LA, NE, OK, SD, TX and some in NV and WY do not post the FDA advice.

many other U.S. states. Meanwhile, Washington, Oregon, Nevada and Alaska have even higher percentages due to the presence of Safeway and Kroger as well as Costco and Albertsons stores that have committed to posting the FDA advice at the point of sale.

Table 5: Most of the Low-Ranked States are Southern and Eastern States

Rank	State	Major Green Company	Major Red Company
42	Pennsylvania	Acme	Weis
43	South Dakota	Safeway	Hy-Vee
44	Wisconsin	Jewel, Cub	Copps, Pick 'n Save
45	Alabama	Kroger	Winn-Dixie
46	Louisiana	Kroger	Winn-Dixie
47	South Carolina	Kroger	Food Lion, Bloom
48	New York	Trader Joe's, Costco	A&P, Pathmark
49	Florida	Costco	Publix
50	Iowa	Jewel, Cub	Hy-Vee
51	Oklahoma	Whole Foods	Wal-Mart

EASTERN STATES

Eastern states benefit from grocery companies with a nationwide footprint; however, since many companies based in the East have not begun to post signs, shoppers in this region remain at a considerable disadvantage (see Table 5). Most states in the eastern portion of the country rank low, with Washington, D.C., a notable exception, earning a respectable "B" grade. This high grade is attributable to the predominance of Safeway stores in the District, with some support from Whole Foods and Trader Joe's which are also posting signs. In comparison, 20 percent or less of the major grocery market in New York, New Jersey and Pennsylvania post the FDA's advice, earning these states poor grades. Refusal to post signs by companies such as A&P and its subsidiaries contributes to the low grades in the Northeast.

SOUTHERN STATES

No southern state has warning signs in more than 40% of its stores, and most of these states have far fewer. While a few grocers are posting the FDA advice, many more are not. Florida, South Carolina, Louisiana and Alabama are among the lowest ranking states. This is due largely to the refusal by Publix, Food Lion, Bloom and Winn Dixie to post the EPA/FDA mercury advice at their seafood counters.



SUMMARY AND CONCLUSIONS

Seafood consumption has risen dramatically in recent decades. Yet despite this increased interest in fish, research has shown that consumers lack specific information on which fish are high in mercury, and should be avoided by the most sensitive consumers, according to the U.S. Food and Drug Administration. Many consumers would like this information to be made more easily available. Thousands of shoppers have requested that their grocer post the EPA/FDA advice at the point of sale and the number of grocers voluntarily doing so is increasing. Based on Oceana's analysis, the number of grocery stores posting signs has nearly tripled in the past two years. Even with so many more grocers posting the government advisory, however, shoppers in two out of three stores still will not have the chance to see such a sign since many companies have continued to refuse to post them. Those companies that have refused to display the FDA mercury advice in their seafood sections need to reconsider and begin posting signs to inform their customers and allow them to make healthier choices.


RECOMMENDATIONS

Based on this analysis, Oceana makes the following recommendations:

- **GROCERY STORES NOT YET POSTING THE FOOD AND DRUG ADMINISTRATION'S ADVICE ABOUT MERCURY IN SEAFOOD SHOULD DO SO IMMEDIATELY TO ALLOW SHOPPERS TO MAKE INFORMED CHOICES ABOUT WHAT THEY PURCHASE AND FEED TO THEIR FAMILIES**
- **BROCHURES AND INFORMATION ON SUPERMARKET WEBSITES ABOUT MERCURY IN FISH SHOULD BE SUPPLEMENTED BY SIGNS AT THE POINT OF SALE TO ALLOW BUSY SHOPPERS TO SEE THE INFORMATION EVEN IF THEY DON'T CHOOSE TO READ THE BROCHURE**
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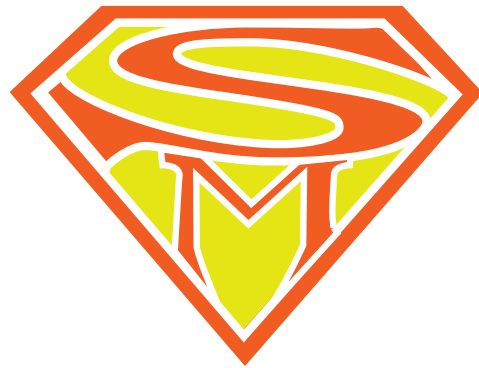
By avoiding higher mercury fish, limiting consumption of albacore and fresh tuna and by choosing low mercury fish instead, consumers can get the benefits of fish while minimizing mercury exposure and its attendant risks. Plenty of low-mercury fish are readily available including many that are also good sources of Omega-3 fatty acids.¹⁶ Consuming a variety of low-mercury fish is one of the best ways to minimize the risk of mercury from seafood while enjoying its health benefits.

METHODS

Oceana has developed and continues to update a database of grocery store locations based on industry trade publications and publicly available information from individual companies. State-by-state figures on the number and percentage of major grocery stores on the Green List and Red List were derived by Oceana based on our respective lists of grocery store banners and the number of stores under each banner in a given state. An estimated 70 percent of the total grocery market share is represented in Oceana's database. Grades were determined based on the percentage of Green List stores in each state. Data in this report are based on the last update of this database in May, 2008. While every attempt was made to ensure the quality of these statistics, the grocery industry is highly variable: stores open, close and change ownership frequently. 



FEATURED STATES



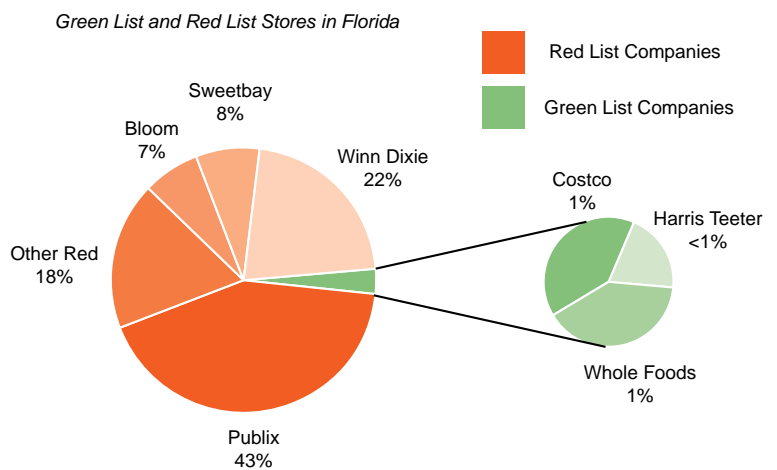
SUPER MARKETS IN FLORIDA

FLORIDA RANKS THIRD WORST OF ALL STATES DUE TO THE EXTREMELY LOW NUMBER OF GROCERY STORES POSTING THE FDA ADVICE ABOUT MERCURY IN SEAFOOD - LARGELY BECAUSE PUBLIX REFUSES TO POST THE FDA ADVICE.

Florida ranks third worst of all states due to the extremely low number of grocery stores posting the FDA advice about mercury in seafood. Thus the state earned a solid "F" grade. The 36 Florida stores owned by companies dedicated to posting this important information are outnumbered nearly 45-to-1 by stores that refuse to give this information, largely due to the dominance of two regional companies, Publix and Winn-Dixie. Publix represents 43 percent of the major grocery stores in the state. Even if a nationwide company like Wal-Mart were to begin to post warning signs, residents of the Sunshine State would still be largely left in the dark when it comes to advice concerning mercury. The best way for consumers in the state to be informed about the FDA's mercury advice would be for Publix to simply post the advice at their seafood counters.

PUBLIX: NOT RESPONDING TO CUSTOMER REQUESTS

Most of the stores in Florida on Oceana's Red List are owned by Publix – a company that has consistently refused to post the FDA advice about mercury in seafood. Headquartered in Lakeland, Florida, Publix is by far the largest Red List grocer in the state. With 672 locations, the company represents 43 percent of the major grocery stores in the state. Publix has almost twice as many locations in Florida as its closest competitor, Winn-Dixie (350 locations). The fact that Publix has been refusing to post a simple warning sign is especially surprising since the company markets itself as a good corporate citizen.



Source: Data compiled by Oceana using publicly available information from trade resources and individual companies.^{17, 18}

Publix provides brochures with some information about mercury, indicating that the company knows about the dangers of this chemical. This hefty brochure offers a wide array of information; however, the information is hardly equal in importance. Just like weekly sales that are displayed easily for customers to see, seafood safety information also needs to be highly visible and accessible to shoppers.



PUBLIX

HEADQUARTERS: LAKELAND, FL

FIRST OCEANA REQUEST TO PUBLIX: JANUARY, 2006

CONSUMER REQUESTS TO PUBLIX: 932

PUBLIX RESPONSE: REFUSAL TO POST SIGNS

For many, Publix is a household name – especially in Florida. The company has grown to become the largest supermarket chain in the state and the largest employee-owned supermarket chain in the country.¹⁹ With annual earnings of \$23 billion in 2007,²⁰ Publix has higher sales than rival grocery companies such as Food Lion, Winn-Dixie, and Ahold.²¹ The company has also received the highest rating of customer approval (83%)²² of any supermarket in the country. Despite its stated commitment to customer service, Publix still has not fulfilled the simple request of hundreds of its customers: post a warning sign about mercury in seafood.

When pressed for a reason why the company refuses to post a simple sign, a Publix spokesperson claims that, “we’re in the business to educate our customers, not alarm them.”²³ Yet, seafood purchases can actually increase even with the government advisory being posted at the point of sale- evidence that customers are not alarmed, but possibly reassured with their purchases.²⁴ Publix’s response, in addition to the location of the FDA’s warning on the company’s brochure, makes it seem that the company is intentionally hiding pertinent public health information from its customers.

Training Seafood Counter Attendants is Necessary, but Not Sufficient

In another effort to reduce the importance of signs, Publix claims it trains employees on mercury issues and makes staff available to answer customer concerns.²⁵ However, Oceana’s recent report, *Hold the Mercury*, in which Oceana volunteers and staff asked seafood counter attendants for the FDA advice about mercury in seafood, found that Publix employees were some of the least capable of providing this information. For example, one attendant at a Publix in Altamonte Springs, Florida stated that “women who are pregnant should not eat any fish that is farm raised but it was OK to eat all fish from the ocean.”²⁶ Of course all of the FDA “Do Not Eat” fish are ocean species, and many of their low mercury alternatives are farm raised so this advice could not have been more inaccurate. Another Publix employee in Coral Gables, Florida claimed that “if you’re pregnant, don’t eat Chilean sea bass. All the other fish are fine to eat.”²⁷ This information is both misleading and dangerous because neither attendant mentioned anything about the species of fish that the FDA says are of most concern for women and children: swordfish, shark, tilefish, king mackerel, and fresh tuna.

Publix should immediately begin to post the FDA advisory about mercury in fish to give Floridians a chance to protect themselves from high mercury levels.

WHEN ASKED FOR THE FDA ADVICE ABOUT MERCURY IN SEAFOOD, PUBLIX EMPLOYEES WERE SOME OF THE LEAST INFORMED DESPITE THE AVAILABILITY OF BROCHURES.

DESPITE ITS STATED COMMITMENT TO CUSTOMER SERVICE, PUBLIX STILL HAS NOT FULFILLED THE SIMPLE REQUEST OF HUNDREDS OF ITS CUSTOMERS: POST A WARNING SIGN ABOUT MERCURY IN SEAFOOD.



WHOLE FOODS

HEADQUARTERS: AUSTIN, TX

FIRST OCEANA REQUEST TO WHOLE FOODS: FEBRUARY, 2005

WHOLE FOODS COMMITMENT: JUNE, 2006

WHOLE FOODS: ONE OF FLORIDA'S GREEN GROCERS

In May 2005, Oceana contacted major grocery companies from around the country, including Whole Foods, requesting that they post the FDA mercury guidance. After discussions between Oceana and Whole Foods executives, Whole Foods decided to post warning signs at its seafood counters and in canned tuna aisles.

In June 2006, Oceana launched the first edition of its Green List in conjunction with partner organizations in eight different cities across the country. Oceana Board Member and longtime ocean activist, Ted Danson, joined Oceana Campaign Director, Jacqueline Savitz and Pediatrician Dr. Leonardo Trasande in New York City to applaud Whole Foods and to add the company to Oceana's "Green List".

Whole Foods has 14 stores in Florida and 264 nationwide. Despite this relatively small number of stores, the company is growing quickly. Over the past five years, Whole Foods has moved up twelve spots on the annual Super 50 list, which ranks the grocery industry's leading 50 businesses. Just last year, Whole Foods purchased Wild Oats, a competing natural foods specialty company.²⁸ Wild Oats had been the first company to begin voluntarily posting the FDA warning about mercury in seafood.²⁹

Whole Foods and other companies posting the FDA advice appear to have their customers' best interest in mind. More companies should follow Whole Foods' lead in protecting public health by posting the FDA mercury advice wherever high mercury fish are sold.



Whole Foods posts mercury advisories like this one at its stores nationwide.



SUPER MARKETS IN OHIO

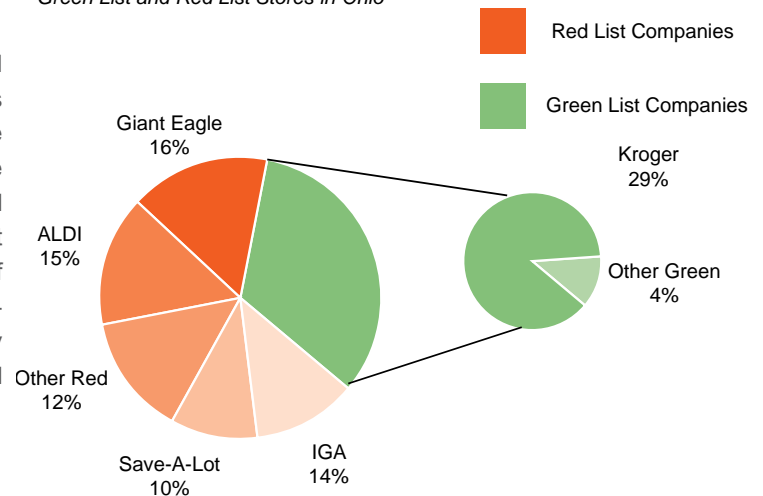
OHIO RECEIVES A "D" GRADE - WITH FEW GROCERS POSTING WARNING SIGNS ABOUT MERCURY IN SEAFOOD - IN PART BECAUSE GIANT EAGLE REFUSES TO DISPLAY THE FDA ADVISORY.

Ohio ranks 28th in the country, below the national average with only 33 percent of the state's grocers posting the FDA advice. Kroger and Giant Eagle dominate the state's grocery industry. Kroger stores are posting the advice while Giant Eagle stores are not. Red List grocers like ALDI, IGA and Wal-Mart are also present in Ohio, but because Giant Eagle owns 24 percent of the Red List stores in Ohio, the company could single-handedly raise the state's ranking to 16th in the country by simply following the lead of its biggest competitor and posting inexpensive signs.

GIANT EAGLE: NOT RESPONDING TO CUSTOMER REQUESTS

Based in Pittsburgh, Pennsylvania, Giant Eagle, Inc. has grown to be a top retailer in Maryland, Ohio, Pennsylvania and West Virginia, operating 158 corporate and 65 independent supermarkets. The company earned \$7.1 billion in annual sales in 2007 and serves more than 5 million individual customers annually.³⁰ In Ohio, the company owns 121 stores or about 16 percent of the major grocery stores in the state. With so many locations, Giant Eagle has the opportunity to inform millions of people about mercury levels in seafood. Unfortunately, the company has yet to comply with its customers' requests for mercury warning signs at the point of sale.

Green List and Red List Stores in Ohio



Source: Data compiled by Oceana using publicly available information from trade resources and individual companies.

Brochures Don't Make the Grade

Giant Eagle displays a six-page brochure that includes information on mercury in fish.³¹ While brochures may be helpful, they should be supplements, not substitutes, for easily accessible signs. Signs are useful tools for retailers who want to draw attention or convey a message. From the moment customers step into a grocery store, they are welcomed by signs advertising prices, sales and even warnings. Signs are the best way to catch the attention of busy consumers quickly. In fact, Giant Eagle already uses signs to draw attention to how healthy seafood is – while hiding the mercury advisory in a brochure.

GIANT EAGLE

HEADQUARTERS: PITTSBURGH, PA

FIRST OCEANA REQUEST TO GIANT EAGLE: JANUARY, 2006

CONSUMER REQUESTS TO GIANT EAGLE: 496

GIANT EAGLE RESPONSE: REFUSAL TO POST SIGNS

Training Seafood Counter Attendants is Necessary, but Not Sufficient

A Giant Eagle spokesperson has indicated that the company “spends a tremendous amount of time”³² training employees to answer customer questions, even on mercury issues. A newspaper reporter visited several Giant Eagle stores in 2006 to ask about mercury in seafood. At that time, some attendants could not provide information on mercury in fish because they either did not know enough about mercury, or the brochures were unavailable.³³ A recent Oceana report, *Hold the Mercury* also found that seafood attendants are an undependable source of seafood safety information. Nearly 9 out of

10 seafood counter attendants surveyed at a variety of grocery stores could not advise Oceana’s volunteers and staff about the FDA advice. If Giant Eagle were to post a simple sign containing the FDA advice,³⁴ or simply add it to the current sign dealing with seafood health, customers would not have to rely on the availability of brochures or the advice of employees who may or may not accurately identify seafood considered to be unsafe by the government agencies.

Giant Eagle should immediately begin to post the FDA advice about mercury in certain fish to give its customers a fighting chance at protecting themselves against additional mercury exposure.



Giant Eagle uses signs to draw attention to how healthy seafood is – while the FDA’s mercury advisory is hidden in a brochure.

KROGER

HEADQUARTERS: CINCINNATI, OH

FIRST OCEANA REQUEST TO KROGER: JULY, 2005

KROGER COMMITMENT: JANUARY, 2008

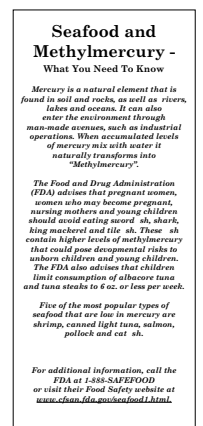
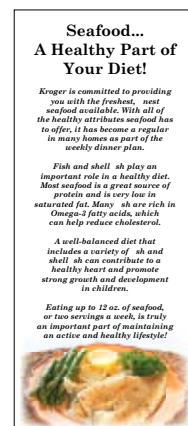
KROGER: OHIO’S MAJOR GREEN LIST GROCER

The Kroger Company, based in Cincinnati, is the second largest grocery company in the United States behind Wal-Mart.³⁵ Kroger operates over 2,400 grocery stores and accounts for the largest portion of Oceana’s “Green List” stores nationally. Representing about 29 percent of all major grocery stores in the state, Kroger owns almost twice as many stores in Ohio as Giant Eagle.

Kroger initially adopted a stance similar to that of Giant Eagle, only offering the FDA advice in brochure form.³⁶ After thousands of Kroger customers contacted the company, Kroger agreed to post its brochure so that

it also functions as a sign. Kroger’s signs provide helpful information on how to reduce exposure to mercury – by using the FDA advice and choosing lower mercury fish, with a few low mercury options even listed on the sign. The signs also convey information about the benefits of eating seafood. By providing all of this information, Kroger allows its customers to make healthy seafood choices for themselves and their families.

Kroger announced its decision to begin posting the FDA advice at the point of sale in January 2008. In doing so, Kroger joined other companies like Whole Foods, Trader



Kroger now posts signs like this one at seafood counters

Joe’s, bigg’s and Cub Food’s – grocers who had already been posting the FDA mercury information at seafood counters.

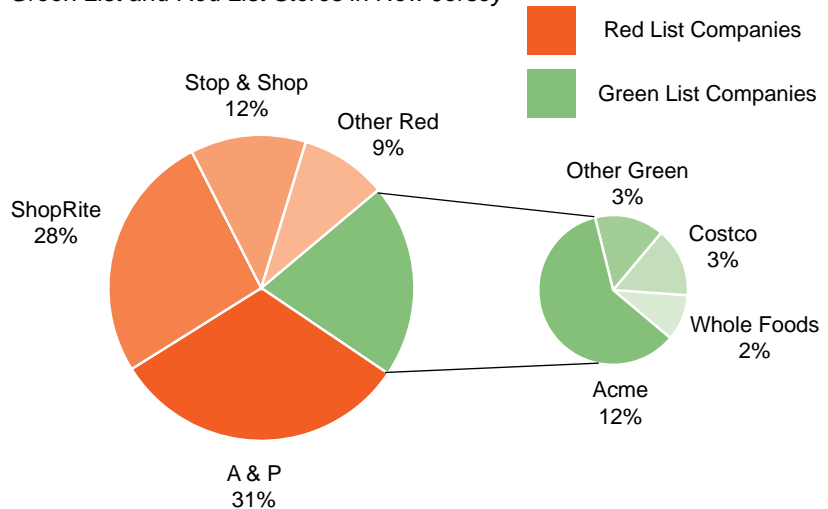


SUPERMARKETS IN NEW JERSEY

NEW JERSEY SCORES A "D" WITH VERY FEW GROCERS POSTING MERCURY WARNING SIGNS. SCORE IS DRIVEN IN PART BY FAILURE OF A&P SUPERMARKETS TO POST SIGNS.

Very few stores in New Jersey are posting the Food and Drug Administration's advice about mercury in fish at their seafood counters, earning the state a "D" grade. In fact, 80 percent of major supermarkets in New Jersey do not display this vital information. Companies like Acme, Whole Foods, Genuardi's and Trader Joe's are posting the consumer advice in their stores nationwide, but other major companies in New Jersey have refused to take this simple step. Grocers that have refused to post the FDA advice include ShopRite and Stop & Shop as well; however, A&P, headquartered in Montvale, N.J., holds the distinction of being the largest Red List grocer in New Jersey.

Green List and Red List Stores in New Jersey



Source: Data compiled by Oceana using publicly available information from trade resources and individual companies.

A&P: NOT RESPONDING TO CUSTOMER REQUESTS

A&P, through the A&P banner and its other retail banners including Pathmark, Food Basics, and Super Fresh, makes up 39 percent of New Jersey's Red List stores. The company could more than double the number of grocery stores in the state posting the FDA advice by simply doing what some of its competitors are already doing.

Claims of Sourcing Fish from "Low Mercury Waters" are Misleading

Currently, A&P claims to be looking into "renewing consumer confidence in seafood because of what's happened with food

safety."³⁷ An A&P spokesperson says the company will begin "sourcing swordfish and yellowfin tuna from boats that only fish in waters known to have little or no mercury, and when tested fall well below the FDA legal limit."³⁸ Although A&P has not fully explained the details of its program, it is unlikely to be adequate in addressing mercury exposure from seafood. Instead, consumers may gain a false sense of security about the seafood they are purchasing because of A&P's program, and may be encouraged to ignore important government advice even though that advice is still applicable and important.

The idea of sourcing fish from low mercury waters is unlikely to protect consumers. While a few studies suggest that some fish have lower mercury levels when taken from certain parts of the ocean,³⁹ this result does not apply to all fish, including fish that women of childbearing age should not eat: swordfish, king mackerel, tilefish and shark. The FDA advice should still be followed and offered at the point of sale. Otherwise consumers will continue to shop without knowing which fish to avoid.

It is difficult to find specific geographic locations where mercury in top predator fish are low. Mercury levels in seafood are directly related to the size, age and trophic level of the fish, more so than the mercury levels in the water where the fish was caught. Tuna and swordfish, for example, are highly migratory species, traveling thousands of miles in their lifetime between spawning grounds and feeding areas. These species accumulate mercury predominantly from their diets of smaller fish, and it builds up in their flesh through every step in the food chain - not from exposure to the water. Thus, a swordfish that spent much of its life off the coast of Massachusetts and was caught in "low mercury waters" near South America is not necessarily a low mercury fish.

The FDA advice urges women of childbearing age and children to limit their consumption of albacore and fresh tuna to six ounces per week or less due to the average mercury levels in these fish. In contrast to swordfish, some research shows that it is possible to find lower mercury albacore tuna.⁴⁰ These fish tend to be smaller individuals taken from the Pacific Ocean. However, even if the levels are comparable to the FDA's low mercury fish, the FDA advice goes on to suggest limiting all fish consumption to 12 ounces per week or less. So fish eaters still need to know the FDA advice in order to protect themselves and their families from mercury. If A&P attempts to market and sell these lower mercury fish, it becomes even more important for the company to post the FDA advice so that shoppers can understand their limitations.

According to the FDA, there are a wide variety of low mercury fish. These fish will likely continue to be lower in mercury than any "low mercury" swordfish or fresh tuna, including yellowfin and bluefin for example. Swordfish tend to have among the highest levels of mercury of all heavily consumed fish. To put the mercury levels in perspective, FDA testing indicates that mercury levels in swordfish average about 70 times higher than salmon. Similarly, the average fresh tuna sample has approximately 38 times more mercury content than tilapia.⁴¹ So, even if mercury levels in A&P's specially sourced and tested swordfish and fresh tuna were half as high as the FDA average, these fish would still come out well above many of the low mercury fish recommended by the FDA.

The bottom line is that the FDA advice provides key messages that shoppers need, and shoppers will still need those messages in part because the swordfish will continue to be relatively high in mercury and also because the advice applies to all fish when eaten as part of a varied diet. By refusing to post signs with this important advice, A&P is only offering consumers a false sense of security.

THE FDA ADVICE THAT SHOPPERS STILL NEED TO KNOW IS THAT WOMEN OF CHILDBEARING AGE AND KIDS SHOULD:

- NOT EAT SWORDFISH, SHARK, TILEFISH OR KING MACKEREL
- EAT A VARIETY OF FISH, LIMITING TOTAL CONSUMPTION, EVEN OF SO-CALLED "LOW MERCURY" FISH, TO 12 OUNCES PER WEEK OR LESS.





A&P
BASED IN: MONTVALE, NJ
FIRST OCEANA REQUEST TO A&P: JANUARY, 2006
CONSUMER REQUESTS TO A&P: 3,057
A&P RESPONSE: REFUSAL TO POST WARNING SIGNS



Training Seafood Counter Attendants is Necessary, but Not Sufficient

Many counter attendants at U.S. grocery stores do not have the proper information about the FDA advisory. A recent report shows that nearly 9 out of 10 seafood counter attendants at a variety of grocery stores across the U.S. either cannot provide the FDA advice, or give incomplete information to customers. An A&P employee's response to a customer from at one of A&P's Food Emporium stores illustrates the problem.

According to the shopper:

"SHE WAS UNAWARE OF ANY INFORMATION. THE ONLY THING SHE KNEW WAS THAT IF I WANTED TO HAVE A BOY, I SHOULD EAT THE VERY LARGE CHERRYSTONE CLAMS. IF I WANTED A GIRL, I SHOULD EAT THE SMALLER SIZED CLAMS."
-THE FOOD EMPORIUM, NEW YORK CITY

This bad advice was given even after A&P has attempted to train its seafood counter attendants about mercury concerns. Other Red List companies also performed poorly in the questionnaire, suggesting that stores simply cannot rely on attendants to communicate this important government advice. In the study, stores with signs posting the FDA advisory were more likely to accurately answer customer questions about mercury. By displaying the government advice, customers and seafood attendants can get accurate information about mercury in fish. A significant portion of major grocery companies in the United States already are posting the FDA advice, including major competitors of A&P such as Acme.

SUPERVALU

BASED IN: EDEN PRAIRIE, MINNESOTA

FIRST OCEANA REQUEST TO SUPERVALU : MAY, 2005

SUPERVALU COMMITMENT: NOVEMBER, 2006

ACME: NEW JERSEY'S GREEN LIST GROCER

With 57 stores in New Jersey, Acme has the most Green List stores in the state. Acme is a subsidiary of SuperValu, which also owns eleven other banners- representing approximately 1,300 stores nationwide posting the FDA advice about mercury in seafood.

Many people may not be familiar with SuperValu; however, the company owns many well-known banners such as Acme in the East, Albertsons in the West, Cub and Jewel in the Midwest and Shaw's in New England, among others. The assortment of stores owned by the company helps SuperValu remain the third largest grocery company in the United States.⁴⁶ As of 2007, SuperValu had four times as many stores as A&P and generated \$26 billion more in sales than A&P.

In 2006, Oceana partnered with Women's Voices for the Earth to convince SuperValu to begin posting the FDA advice at its seafood counters. The company announced that it would begin posting the FDA advice at seafood counters at most of its stores in November 2006. In New Jersey, SuperValu's decision to post the FDA advisory considerably increased the opportunity for the state's consumers to get pertinent information about mercury in seafood.

But even with Acme posting the FDA advice, the state still receives a "D" overall, particularly because of the prevalence of A&P stores in the state, and that company's refusal to give consumers the information they want.



SuperValu stores, like Acme, post mercury advisories like this one at its stores nationwide.



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Oceana campaigns to protect and restore the world's oceans. Our team of marine scientists, economists, lawyers and advocates win specific and concrete policy changes to reduce pollution and to prevent the irreversible collapse of fish populations, marine mammals and other sea life. Global in scope and dedicated to conservation, Oceana has campaigners based in North America, Europe, and South America. More than 300,000 members and e-activists in over 150 countries have already joined Oceana. For more information, please visit www.Oceana.org.



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